

## **INITIAL STATEMENT OF REASONS:**

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend Section 3173.1 of the California Code of Regulations (CCR), Title 15, Division 3, concerning visiting restrictions with minors.

These Proposed Regulations will bring CDCR into immediate compliance with the Superior Court of California, County of Del Norte order, In re Raymond Anthony Reyes, HCPB04-5166 which permits sex offenders to have non-contact visits with minors.

The CDCR, recognizing the value of visiting for establishing and maintaining meaningful family and community relationships, seeks to standardize processes concerning visiting restrictions with minors that were formerly subject to local interpretation. These proposed amendments will retain some appropriate flexibility to individual institutions, facilities, and their visitors, while at the same time, insure the safety of all persons including visiting minors and the legitimate penological interests of maintaining the safety and security of the institutions.

This action will amend the current CCR Section 3173.1, with language which has been rewritten for clarity and easier reference by staff, inmates, and the public in general. Some specific regulatory provisions are retained in virtually unchanged form, while at the same time, new regulatory provisions are added concerning restricted visitation with minor victims as well as restrictions for visiting with minors deemed as non victims. Additionally, new language is provided concerning the responsibility of the Institutional Classification staff for the review and determination concerning the safety of visitation with minors in a contact or non-contact setting.

The CDCR must determine that no alternative considered would be more effective in carrying out the purpose of this action, or would be as effective and less burdensome to affected private persons, than the action proposed.

**Section 3173.1 (a) is adopted** to clarify the restriction of visitation with a minor victim for inmates convicted of PC Sections 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289 except as authorized by a Juvenile court order pursuant to Welfare and Institutions Code Section 362.6. Visitation pursuant to such an order shall be limited to non-contact status.

**Subsection 3173.1 (b) is adopted** to provide specific direction for restricting visitation with any minor who is not the victim of the crime for inmates convicted of PC Section(s) 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289. Visitation with any minor who is not the victim of the crime shall be limited to non-contact status. This restriction is clarified to protect minor visitors from inmates who have been convicted of PC Sections which show an "intent to harm the child" or show a nexus to that harm.

**Subsection 3173.1 (c) is adopted** to provide specific direction for restricting visitation with the minor victim for inmates convicted of PC Section 269, 273a, 273ab, or 273d. All visiting with the minor victim shall be limited to non-contact status.

**Subsection 3173.1 (d) is adopted** to provide specific direction for restricting visitation for inmates convicted of PC Sections 187, 269, 273a, 273ab, or 273d, when the victim is a minor, visitation with any other minor shall be limited to non-contact status except as authorized by the Institution Classification Committee (ICC).

**Subsection 3173.1 (e) is adopted** to provide specific direction for restricting visitation for inmates who have been arrested, but not convicted of any of the PC Sections included in this Section and the victim of the crime is a minor, the classification committee shall determine whether all visitation with a minor(s) is to be limited to non-contact status. This Section also gives specific instruction to assist the classification committee in determining if contact or non-contact visiting would be allowed for inmates arrested for any of the above mentioned PC Sections.

**Subsection 3173.1 (f) is adopted** to provide specific direction that if the classification committee determines that the inmate will pose a harm to minor visitors in contact visitation, it shall order all the inmates visitation with minors be restricted to non-contact status

**Subsection 3173.1 (g) is adopted** to provide specific direction that if the inmate disagrees with the decision of the classification committee the inmate may file a CDC Form 602, Inmate/Parolee Appeal Form.